

Board of Pharmacy
Final Statement of Reasons

Addendum

Subject Matter of Proposed Regulation: Fee Schedule

Title 16 Sections Affected: 1749

There are nonsubstantive modifications to the information contained in the Final Statement of Reasons as the result of comments received in response to the rulemaking review by Office of Administrative Law (OAL) staff received November 14, 2007.

Rationale for Proposed Regulations

As stated in the Initial Statement Of Reasons, the board must raise all fees to the statutory maximums specified in relevant Business and Professions Code sections to ensure the financial solvency of the board's budget.

Business and Professions Code section 4400(p) states that it is the intent of the Legislature that the board shall seek to maintain a reserve in the Pharmacy Board Contingent Fund equal to approximately one year's operating expenditures. The board determined that it must pursue a fee increase and raise all of its fees to the statutory maximum in order to attempt to achieve compliance with section 4400(p). Even with an increase to the statutory maximum for each fee, the total revenue increase will not be sufficient to generate a reserve of one year's operating expenses as required by section 4400(p).

Specifically, a review of the board's fund condition for Fiscal Year 2007/08 reveals that absent the fee increase, the board's fund condition only have the equivalent to 9.6 months of operating expenditures and will further decrease each fiscal year.

As detailed in the Analysis of Fund Condition, provided in Attachment M of the rulemaking, the board's estimated revenue for fiscal year 2007/08 is \$6,047,000 however the board's estimated expenditures are \$9,315,000. This inequity in revenue versus expenditures will result in a continued depletion of the board's fund condition.

With this increase, the board anticipates an increase in revenue for 2007/08 of approximately \$700,000 assuming the effective date of the regulation is January 1, 2008. The board anticipates ongoing revenue increase of approximately \$1,400,000 for future fiscal years. However, even with this increase in revenue, the board's fund condition will drop to 10.6 months of operating expenses in

fiscal year 2007/08. The board's fund condition will continue to deplete, and by fiscal year 2010/11 will be at approximately 2 months.

Public Hearing

No public hearing was held, and no request for a public hearing was received.

Explanation of Statutory Basis for Changes

The temporary permit fee proposed in section 1749(b) is authorized by Business and Professions Code section 4110(b) which designates that the temporary permit fee shall not exceed the annual fee for renewal of a permit to conduct a pharmacy.

The temporary license fee proposed in section 1749(r) is authorized by Business and Professions Code section 4196(b), which states that the temporary license fee shall be fixed by the board in an amount not to exceed the annual renewal of a license to conduct a veterinary food-animal drug retailer.

Consideration of Alternatives

The board has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affect private persons than the proposed regulation.